

Message

From: Coe, Mary [Coe.Mary@epa.gov]
Sent: 12/18/2018 10:00:42 PM
To: Servidio, Cosmo [Servidio.Cosmo@epa.gov]
CC: Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Fields, Jenifer [fields.jenifer@epa.gov]
Subject: FW: Bishop Tube Litigation - Followup to Cosmo's Deposition Notice

Flag: Flag for follow up

Cos –

Please see the message below on what we have learned about this matter so far.

We will keep you advised as we learn more. Let us know if there is anything else you would like us to do in the meantime.

Mary

*Mary B. Coe
Regional Counsel
UA EPS Region III
1650 Arch Street
Philadelphia, PA 19103
215-814-2617*

From: Smith, William (Region 3)
Sent: Tuesday, December 18, 2018 4:42 PM
To: Coe, Mary <Coe.Mary@epa.gov>
Cc: Bigioni, Neil <bigioni.neil@epa.gov>; Yeany, Philip <Yeany.Philip@epa.gov>; Stoltzfus, Robert <Stoltzfus.Robert@epa.gov>
Subject: Bishop Tube Litigation - Followup to Cosmo's Deposition Notice

*****CONFIDENTIAL ATTORNEY COMMUNICATION - May be FOIA exempt*****

Mary-

At your request, I am following up on 12/18/18 email (below) to RA Cosmo Servidio from Maya van Rossum of the Delaware Riverkeeper Network, providing "courtesy notification that in the context of our case against the PA DEP regarding the Bishop Tube site, we submitted a notice of deposition that includes you."

This morning, Phil Yeany and I spoke with the PA DEP attorneys assigned to this matter, Andrew Bram (484-250-5668) and Mica Iddings (484-250-5930). This afternoon, I spoke with Ms. van Rossum (who is an attorney as well as the Riverkeeper). I also accessed the Del. Riverkeeper website to obtain a description of activities and court filings relating to this matter. (See links below). Bettina Dunn obtained a docket sheet from the Commonwealth Court, which indicates this case is in active litigation.

Background: Del. Riverkeeper has sued PA DEP in PA Commonwealth Court, seeking to compel PA DEP to undertake an extensive cleanup of the Bishop Tube site in East Whiteland, Chester Co., PA. This is a 13.7 acre former industrial site, heavily contaminated by TCE, VOCs, and metals. The Del. Riverkeeper's petition

for review alleged that PA DEP's "manifest neglect and dilatory conduct, over a period of seventeen or more years to clean up ... hazardous releases" violates various state law and state constitutional provisions.

In a July 15, 2018 decision, the Commonwealth Court overruled PA DEP's preliminary objections to this lawsuit, allowing discovery to proceed. **Ex. 5 AC/AWP/DP**

Ex. 5 AC/AWP/DP Cosmo's deposition was among four depositions originally noticed in November, which included present and former PA DEP employees. **Ex. 5 AC/AWP/DP**

Ex. 5 Attorney Work Product (AWP)

For more information, here is a link to 7/25/18, Memorandum Opinion of the Commonwealth Court, overruling PaDEP's preliminary objections to Riverkeeper's Petition for Review, <http://delawareriverkeeper.org/sites/default/files/Memorandum%20Opinion%20-%20DRN%20v%20PADEP%20%282018-07-25%29.pdf>

See also Delaware Riverkeeper Website: "Bishop Tube Development Proposal" (pasted below) <http://delawareriverkeeper.org/ongoing-issues/bishop-tube-development-proposal>

Press Report: Delaware Riverkeeper protests Bishop Tube development, Daily Local News, 10/17/17 https://www.dailylocal.com/news/national/delaware-riverkeeper-protests-bishop-tube-development/article_8f92b46c-d536-54f1-af80-6081fb61c4ed.html

Please let me know if you need more information.

William C. Smith
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215-814-2690 (phone)
215-814-2603 (fax)

From: Servidio, Cosmo

Sent: Tuesday, December 18, 2018 8:52 AM

To: Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Coe, Mary <Coe.Mary@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>

Subject: Fwd: courtesy notification

Let's discuss.

C

Sent from my iPhone

Begin forwarded message:

From: Maya van Rossum <Keepermaya@delawareriverkeeper.org>

Date: December 18, 2018 at 8:34:12 AM EST

To: "R3_RA@epa.gov" <R3_RA@epa.gov>, "servidio.cosmo@epa.gov" <servidio.cosmo@epa.gov>

Cc: "Fields.jenifer@Epa.gov" <Fields.jenifer@Epa.gov>

Subject: courtesy notification

Dear Regional Administrator Servidio,

I just wanted to give you a courtesy notification that in the context of our case against the PA DEP regarding the Bishop Tube site, we submitted a notice of deposition that includes you. I'm sure you have already heard from the department on this matter but it occurred to me that I had not done you the courtesy of letting you know directly. Apologies for that oversight.

With regards,

Maya

Maya K. van Rossum

the Delaware Riverkeeper

Author of The Green Amendment, Securing Our Right to a Healthy Environment. Order at:

<http://bit.ly/TheGreenAmendment>

Or here:



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Twitter: @DelRiverkeeper

Blogging at <https://medium.com/@DelawareRiverkeeper>